

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PETER WIELICKI, et al.,)	CASE NO. 1: 09 CV 15
)	
Plaintiffs,)	JUDGE DONALD C. NUGENT
)	
v.)	MEMORANDUM OPINION
)	AND ORDER
)	
THE HMC GROUP,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kenneth S. McHargh. The Report and Recommendation (ECF # 18), issued on July 27, 2009, is ADOPTED by this Court. The Defendant has filed a motion for summary judgment on Plaintiffs' Complaint. (ECF #13). Magistrate McHargh has recommended granting the motion with respect to all of Plaintiffs' claims except their claim alleging that Defendant violated the Fair Debt Collection Practices Act (FDCPA), finding that there is a genuine issue of material fact on that claim. (ECF #18 at 9). The Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999), and ADOPTS the Report and Recommendation in its entirety.

Accordingly, Defendant's Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART. Defendant is hereby granted judgment in its favor on all counts of Plaintiffs' Complaint except Plaintiffs' FDCPA claim. A jury trial on Plaintiff's remaining FDCPA claim

shall be held on September 28, 2009 at 8:30 a.m.¹ A jury trial order will issue.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: August 13, 2009

¹
Plaintiff Anne K. Wielicki filed a notice of dismissal on August 11, 2009 (ECF #20) of her claims against Defendant HMC Group. While the notice of dismissal states that she dismisses her claims without prejudice, the Court will not permit voluntary dismissal at this late stage of proceeding "without prejudice". Accordingly, Mrs. Wielicki's dismissal will be deemed to be with prejudice.